

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-033-00093R

Parcel No. 03-19-300-006

Kenneth Beach,

Appellant,

vs.

Fayette County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 27, 2021. Kenneth Beach was self-represented. County Assessor Vicky Halstead represents the Board of Review.

The Kenneth Bryan Beach Revocable Trust owns a residential property located at 12750 270th Street, West Union, Iowa. Its January 1, 2021, assessment was set at \$497,340, allocated as \$99,270 in land value and \$398,070 in dwelling value. (Ex. A).

Kenneth Beach petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property in the taxing district. Iowa Code § 441.37(1)(a)(1)(a) (2021). (Ex. C). The Board of Review modified the assessed value of the dwelling to \$377,120 and the total value to \$476,390. (Exs. A & B).

Beach then appealed to PAAB claiming inequity and over assessment. Iowa Code § 441.37(1)(a)(1)(a & b) (2021).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story home built in 2012. It has 2714 square feet of gross living area, an unfinished walk-out partial basement, a geo-thermal heating system, a wood deck, a fireplace, a 702-square-foot attached garage, and two basement stalls. The improvements are listed in normal condition with high-quality construction (grade 2+00). The site is 14.170 acres. (Ex. A).

Beach testified he was surprised by the increase in his assessed value; and after looking for and finding no sales in the north part of Fayette County over \$400,000 decided to file a protest. He said the property was over built and he acknowledged awareness of this when the property was constructed. However, he asserts it was built for his use and not as an investment.

Beach submitted an appraisal completed by Emily Koch, Koch Appraisal Services, West Union, Iowa. Koch developed the sales comparison approach, concluding a value opinion of \$391,000. She concluded that the cost and income approaches to value were not applicable to the assignment. She reported increasing property values, a shortage of supply, and under three months of marketing time for the neighborhood.

Koch analyzed five sales in her sales comparison approach, which are summarized in the following table.

Address	Age in Years	Gross Living Area (SF)	Sale Date	Sale Price	Adjusted Value
Subject	9	2727	NA	NA	NA
1 – 810 S Division St, Sumner	16	3108	12/2020	\$340,000	\$348,150
2 – 19012 Jasper Rd, West Union	41	2456	5/2021	\$290,005	\$357,835
3 – 21908 Ivory Rd, West Union	36	2002	10/2020	\$320,000	\$373,695
4 – 3294 Chimney Rock Rd, Decorah	20	1896	3/2021	\$409,900	\$436,370
5 – 576 Ryan Ridge Rd, Waukon	14	2313	8/2020	\$389,000	\$409,625

Koch reports that two of the comparables were located in the West Union market area. After finding no other comparables in this market that had sold during the past twelve months; the search was broadened to include sales within a 45-mile radius and that had closed in the last eighteen months. (Ex. 1, p. 2).

Koch's unadjusted sale prices range from \$290,005 to \$409,900. After adjusting the comparables for differences, they indicate a range of value for the subject property between \$348,150 and \$436,370. The subject's 2021 assessed value is greater than both of these ranges. Koch reconciled to a final opinion of value of \$391,000. (Ex. 1, p. 2).

The Board of Review submitted no evidence in support of the assessment, but at hearing Halstead was critical of the appraisal and testified she was not in agreement with the final appraised value. She explained the comparables Koch used were from three surrounding counties, but agreed no sales within Fayette County were available. It is Halstead's belief that adjustments were not correct and more similar comparables were available. However, she did not submit any evidence in support of her belief.

Analysis & Conclusions of Law

Beach claimed that the subject property's assessment was not equitable as compared with the assessments of other like property in the taxing district and that the subject property is assessed for more than the value authorized by law.

§ 441.37(1)(a)(1)(a & b).

Under section 441.37(1)(a)(1)(a), a taxpayer may claim that their “assessment is not equitable as compared with assessments of other like property in the taxing district.” To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Beach failed to show any improper variation in assessment methodology among comparable properties.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2020) and assessed (2021) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales (2020) and current year assessments (2021) of the subject property and comparable properties. There is only one 2020 sale from Fayette County in the record. More than one comparable is necessary to prevail on an equity claim. *Id.* at 712. Additionally, the record lacks any information about the comparables’ assessment and therefore the *Maxwell* equity analysis cannot be completed.

In addition to showing the ratios of comparable properties, Beach must show the subject’s actual value. Because Beach’s other claim also requires a showing of actual value, we examine that claim as well.

Beach asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(1)(b).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). If PAAB determines Beach has established the grounds for his protest, then PAAB must make an independent determination of the property’s correct value based on all of the

evidence. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 397 (Iowa 2009) (citations omitted).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. § 441.21(3)(b)(2) (2021). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782 (citations omitted).

In determining market value, “[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value.” § 441.21(1) Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2. “[A]bnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value” § 441.21(1)(b). Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, discounted purchase transactions, or purchases of adjoining land or other land to be operated as a unit. *Id.*

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W.2d at 783 (emphasis added). If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing.

Id. (other citations omitted). Sales prices must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments.” *Id.* (other citations omitted).

Beach submitted the Koch appraisal concluding an opinion of market value of \$391,000 for the subject property. The appraisal was developed with the sales comparison approach to value and complies with the statutory scheme. As noted by the Board of Review and within the appraisal itself, the comparables utilized in the appraisal are located further from the subject than typical. However, this appears to be necessary because the subject is in a rural location. The comparables bracket many of subject’s features. The Board of Review did not agree with the appraisal’s value conclusion and believed better comparables were available. However, it submitted no evidence in support of this assertion.

The Koch appraisal shifts the burden to the Board of Review to uphold its valuation. The Board of Review did not offer any evidence in support of the 2021 assessed value.

We conclude the appraisal is the most credible evidence in the record of the subject’s market value as of the assessment date and modify accordingly.

Order

PAAB HEREBY MODIFIES the Fayette County Board of Review’s action and orders the subject property’s January 1, 2021, assessment be set at \$391,000.

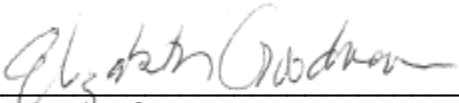
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

Kenneth Beach by eFile

Fayette County Board of Review by eFile

Fayette County Auditor
114 North Vine Street
PO Box 267
West Union, IA 52175